

SENATE BILL No. 98

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-1.1-15.

Synopsis: Notice of property tax appeals. Provides that if the county auditor determines in a property tax appeal, that the assessed value of the items of property being appealed constitutes at least 1% of a taxing unit's total gross certified assessed value for the preceding year, the county auditor must notify the affected taxing unit of the following: (1) The taxpayer's petition for review by the county property tax assessment board of appeals. (2) The date of any hearing before the county property tax assessment board of appeals. (3) The determination of the county property tax assessment board of appeals. (4) The date of any hearing before the division of appeals of the state board of tax commissioners. (5) The determination of the division of appeals of the state board. Allows a taxing unit that receives notice of a hearing to attend the hearing and offer testimony. Changes the circumstances under which a county executive may, upon request by the county assessor, appeal to the tax court a final determination or reassessment by the state board. Allows an affected taxing unit under the same circumstances to request a county executive to appeal a final determination or reassessment by the state board. Specifies what must be included in the record of a case in which a determination of the state board is appealed to the tax court.

Effective: January 1, 2002.

Mrvan

January 8, 2001, read first time and referred to Committee on Governmental and Regulatory Affairs.



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First Regular Session 112th General Assembly (2001)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2000 General Assembly.

SENATE BILL No. 98

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 6-1.1-15-1 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JANUARY 1, 2002]: Sec. 1. (a) A taxpayer
3 may obtain a review by the county property tax assessment board of
4 appeals of a county or township official's action with respect to the
5 assessment of the taxpayer's tangible property if the official's action
6 requires the giving of notice to the taxpayer. At the time that notice is
7 given to the taxpayer, he shall also be informed in writing of:
8 (1) his opportunity for review under this section; and
9 (2) the procedures he must follow in order to obtain review under
10 this section.
11 (b) In order to appeal a current assessment and have a change in the
12 assessment effective for the most recent assessment date, the taxpayer
13 must file a petition with the assessor of the county in which the action
14 is taken:
15 (1) ~~within~~ **not later than** forty-five (45) days after notice of a
16 change in the assessment is given to the taxpayer; or
17 (2) **on or before** May 10 of that year;



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1 whichever is later. The county assessor shall notify, **by mail**, the county
 2 auditor **and the state board of tax commissioners** that the assessment
 3 is under appeal. **The notice must include the appellant's name and**
 4 **address, the assessed value of the appealed items for the assessment**
 5 **date the year before the appeal, and the assessed value of the**
 6 **appealed items on the most recent assessment date. If the county**
 7 **auditor determines that the assessed value of the appealed items**
 8 **constitutes at least one percent (1%) of the total gross certified**
 9 **assessed value for the immediately preceding year for a particular**
 10 **taxing unit, the county auditor shall send a copy of the notice to the**
 11 **affected taxing unit. The county auditor shall compile a list of all**
 12 **units that must be notified under this subsection and shall forward**
 13 **the list to the county assessor.**

14 (c) A change in an assessment made as a result of an appeal filed:

15 (1) in the same year that notice of a change in the assessment is
 16 given to the taxpayer; and

17 (2) after the time prescribed in subsection (b);
 18 becomes effective for the next assessment date.

19 (d) A taxpayer may appeal a current real estate assessment in a year
 20 even if the taxpayer has not received a notice of assessment in the year.
 21 If an appeal is filed on or before May 10 of a year in which the taxpayer
 22 has not received notice of assessment, a change in the assessment
 23 resulting from the appeal is effective for the most recent assessment
 24 date. If the appeal is filed after May 10, the change becomes effective
 25 for the next assessment date.

26 (e) The state board of tax commissioners shall prescribe the form of
 27 the petition for review of an assessment determination by a township
 28 assessor. The board shall issue instructions for completion of the form.
 29 The form and the instructions must be clear, simple, and
 30 understandable to the average individual. An appeal of such a
 31 determination must be made on the form prescribed by the board. The
 32 form must require the petitioner to specify the following:

33 (1) The physical characteristics of the property in issue that bear
 34 on the assessment determination.

35 (2) All other facts relevant to the assessment determination.

36 (3) The reasons why the petitioner believes that the assessment
 37 determination by the township assessor is erroneous.

38 (f) The state board of tax commissioners shall prescribe a form for
 39 a response by the township assessor to the petition for review of an
 40 assessment determination. The board shall issue instructions for
 41 completion of the form. The form must require the township assessor
 42 to indicate:

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(1) agreement or disagreement with each item indicated on the petition under subsection (e); and

(2) the reasons why the assessor believes that the assessment determination is correct.

(g) Immediately upon receipt of a timely filed petition on the form prescribed under subsection (e), the county assessor shall forward a copy of the petition to the township assessor who made the challenged assessment. The township assessor shall, ~~within~~ **not later than** thirty (30) days after the receipt of the petition, attempt to hold a preliminary conference with the petitioner and resolve as many issues as possible. ~~Within~~ **Not later than** ten (10) days after the conference, the township assessor shall forward to the county auditor and county assessor a completed response to the petition on the form prescribed under subsection (f). The county assessor shall immediately forward a copy of the response form to the petitioner and the county property tax assessment board of appeals. ~~If the county auditor determines that the appealed items on which there is disagreement constitute at least one percent (1%) of the total gross certified assessed value of the immediately preceding year for any particular unit, the county auditor shall immediately notify the fiscal officer of the unit.~~ If after the conference there are items listed in the petition on which there is disagreement, the property tax assessment board of appeals shall hold a hearing ~~within~~ **not later than** ninety (90) days ~~of~~ **after** the filing of the petition on those items of disagreement. The taxpayer may present the taxpayer's reasons for disagreement with the assessment. The township assessor or county assessor for the county must present the basis for the assessment decision on these items to the board of appeals at the hearing and the reasons the petitioner's appeal should be denied on those items. The board of appeals shall have a written record of the hearing and prepare a written statement of findings and a decision on each item ~~within~~ **not later than** sixty (60) days ~~of~~ **after** the hearing. If the township assessor does not attempt to hold a preliminary conference, the board shall accept the appeal of the petitioner at the hearing.

SECTION 2. IC 6-1.1-15-2.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2002]: Sec. 2.1. (a) The county property tax assessment board of appeals may assess the tangible property in question.

(b) The county property tax assessment board of appeals shall, by mail, give notice of the date fixed for the hearing under ~~section 1~~ **section 1(g)** of this chapter to the petitioner, ~~and to the township assessor, the county assessor, the county auditor, and the state~~

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board of tax commissioners. The notice must include the following:

(1) For those items on which there is disagreement, the assessed value of the items for the assessment date the year before the appeal.

(2) For those items on which there is disagreement, the assessed value of the items on the most recent assessment date.

(3) A statement that a taxing unit receiving the notice from the county auditor under subsection (c) may attend the hearing and offer testimony.

(c) If after receiving notice of a hearing under subsection (b) the county auditor determines that the assessed value of the items on which there is disagreement constitutes at least one percent (1%) of the total gross certified assessed value for the immediately preceding year for a particular taxing unit, the county auditor shall send a copy of the notice to the affected taxing unit. The county auditor shall compile a list of all units that must be notified under this subsection and shall forward the list to the county assessor and the county property tax assessment board of appeals.

(d) If a petition for review does not comply with the state board of tax commissioners' instructions for completing the form prescribed under section 1(e) of this chapter, the county assessor shall return the petition to the petitioner and include a notice describing the defect in the petition. The petitioner then has thirty (30) days from the date on the notice to cure the defect and file a corrected petition or statement with the county assessor that the petitioner believes the petition is not defective. If a statement is filed or the county assessor believes a corrected petition is not in compliance with section 1(e) of this chapter, the assessor shall forward the statement or corrected petition to the county property tax assessment board of appeals. ~~Within~~ **Not later than** ten (10) days after receiving the statement or petition, the county property tax assessment board of appeals shall determine if the original or corrected petition is still not in compliance. The county property tax assessment board of appeals shall deny an original or a corrected petition for review if it does not substantially comply with the state board of tax commissioners' instructions for completing the form prescribed under section 1(e) of this chapter.

~~(d)~~ (e) The state board of tax commissioners shall prescribe a form for use by the county property tax assessment board of appeals in processing petitions for review of assessment determinations. The state board shall issue instructions for completion of the form. The form must require the county property tax assessment board of appeals to

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1 include a record of the hearing, findings on each item, and indicate
2 agreement or disagreement with each item that is:

- 3 (1) indicated on the petition submitted under section 1(e) of this
4 chapter; and
5 (2) included in the township assessor's response under section
6 1(g) of this chapter.

7 The form must also require the county property tax assessment board
8 of appeals to indicate the issues in dispute for each item and its reasons
9 in support of its resolution of those issues.

10 ~~(e)~~ **(f)** After the hearing the county property tax assessment board
11 of appeals shall, by mail, give notice of its determination to the
12 petitioner, the township assessor, ~~and~~ the county assessor, ~~and the~~
13 **county auditor, the state board of tax commissioners, and any**
14 **taxing unit entitled to notice of the hearing under subsection (c).**
15 **The county property tax assessment board of appeals** shall include
16 with the notice copies of the forms completed under subsection ~~(d)~~ **(e).**

17 SECTION 3. IC 6-1.1-15-3 IS AMENDED TO READ AS
18 FOLLOWS [EFFECTIVE JANUARY 1, 2002]: Sec. 3. (a) A taxpayer
19 may obtain a review by the state board of tax commissioners of a
20 county property tax assessment board of appeals action with respect to
21 the assessment of that taxpayer's tangible property if the county
22 property tax assessment board of appeals' action requires the giving of
23 notice to the taxpayer. At the time that notice is given to the taxpayer,
24 he shall also be informed in writing of:

- 25 (1) his opportunity for review under this section; and
26 (2) the procedures he must follow in order to obtain review under
27 this section.

28 (b) A township assessor or a member of a county property tax
29 assessment board of appeals may obtain a review by the state board of
30 tax commissioners of any assessment which he has made, upon which
31 he has passed, or which has been made over his protest.

32 (c) In order to obtain a review by the state board of tax
33 commissioners under this section, the party must file a petition for
34 review with the appropriate county assessor ~~within~~ **not later than**
35 **thirty (30) days** after the notice of the county property tax assessment
36 board of appeals action is given to the taxpayer.

37 (d) The state board of tax commissioners shall prescribe the form of
38 the petition for review of an assessment determination by the county
39 property tax assessment board of appeals. The state board shall issue
40 instructions for completion of the form. The form and the instructions
41 must be clear, simple, and understandable to the average individual. An
42 appeal of such a determination must be made on the form prescribed

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by the state board. The form must require the petitioner to specify the following:

(1) The items listed in section 1(e)(1) and 1(e)(2) of this chapter.

(2) The reasons why the petitioner believes that the assessment determination by the county property tax assessment board of appeals is erroneous.

(e) The county assessor shall transmit the petition for review to the division of appeals of the state board of tax commissioners ~~within~~ **not later than** ten (10) days after it is filed.

(f) If a township assessor or a member of the county property tax assessment board of appeals files a petition for review under this section concerning the assessment of a taxpayer's property, the county assessor must send a copy of the petition to the taxpayer. **The county assessor shall transmit the petition for review to the division of appeals of the state board of tax commissioners not later than ten (10) days after the petition is filed.**

SECTION 4. IC 6-1.1-15-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2002]: Sec. 4. (a) After receiving a petition for review which is filed under section 3 of this chapter, the division of appeals of the state board of tax commissioners shall conduct a hearing at its earliest opportunity. In addition, the division of appeals of the state board may assess the property in question, correcting any errors which may have been made. The division of appeals of the state board shall give notice of the date fixed for the hearing **and a copy of the petition filed under section 3 of this chapter**, by mail, to the taxpayer and to the appropriate township assessor, county assessor, and county auditor. **The notice must include the following:**

(1) **The assessed value of the appealed items for the assessment date the year before the taxpayer's appeal under section 1 of this chapter was filed.**

(2) **The action of the county property tax assessment board of appeals with respect to the appealed items.**

(3) **A statement that a taxing unit receiving the notice from the county auditor under subsection (b) may attend the hearing and offer testimony.**

The division of appeals of the state board shall give these notices at least ten (10) days before the day fixed for the hearing.

(b) **If after receiving notice of a hearing under subsection (a) the county auditor determines that the assessed value of the appealed items constitutes at least one percent (1%) of the total gross certified assessed value for the immediately preceding year for a**

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particular taxing unit, the county auditor shall send a copy of the notice and a copy of the petition filed under section 3 of this chapter to the affected taxing unit. The county auditor shall compile a list of all units that must be notified under this subsection and shall forward the list to the county assessor and the division of appeals of the state board.

(c) If a petition for review does not comply with the state board of tax commissioners' instructions for completing the form prescribed under section 3 of this chapter, the division of appeals of the state board of tax commissioners shall return the petition to the petitioner and include a notice describing the defect in the petition. The petitioner then has thirty (30) days from the date on the notice to cure the defect and file a corrected petition. The division of appeals of the state board of tax commissioners shall deny a corrected petition for review if it does not substantially comply with the state board of tax commissioners' instructions for completing the form prescribed under section 3 of this chapter.

~~(c)~~ (d) The state board of tax commissioners shall prescribe a form for use in processing petitions for review of actions by the county property tax assessment board of appeals. The state board shall issue instructions for completion of the form. The form must require the division of appeals of the state board to indicate agreement or disagreement with each item that is:

- (1) indicated on the petition submitted under section 1(e) of this chapter;
- (2) included in the township assessor's response under section 1(g) of this chapter; and
- (3) included in the county property tax assessment board of appeals' findings, record, and determination under ~~section 2.1(d)~~ **section 2.1(e)** of this chapter.

The form must also require the division of appeals of the state board to indicate the issues in dispute and its reasons in support of its resolution of those issues.

~~(d)~~ (e) After the hearing the division of appeals of the state board shall give the petitioner, the township assessor, the county assessor, ~~and the county auditor,~~ **and the affected taxing units required to be notified under subsection (b):**

- (1) notice, by mail, of its final determination;
- (2) a copy of the form completed under subsection ~~(c)~~; (d); and
- (3) notice of the procedures they must follow in order to obtain court review under section 5 of this chapter.

~~(e)~~ (f) The division of appeals of the state board of tax

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commissioners shall conduct a hearing within six (6) months after a petition in proper form is filed with the division, excluding any time due to a delay reasonably caused by the petitioner. The division of appeals shall make a determination **within not later than** the later of forty-five (45) days after the hearing or the date set in an extension order issued by the chairman of the state board of tax commissioners. However, the state board of tax commissioners may not extend the final determination date by more than one hundred eighty (180) days. Except as provided in subsection (g):

(1) the failure of the division of appeals to make a determination within the time allowed by this subsection shall be treated as a final determination of the state board of tax commissioners to deny the petition; and

(2) a final decision of the division of appeals is a final determination of the state board of tax commissioners.

(g) A final determination of the division of appeals is not a final determination of the state board of tax commissioners if the state board of tax commissioners:

(1) gives notice to the parties that the state board of tax commissioners will review the determination of the division of appeals within fifteen (15) days after the division of appeals gives notice of the determination to the parties or the maximum allowable time for the issuance of a determination under subsection (f) expires; or

(2) determines to rehear the determination under section 5 of this chapter.

The state board of tax commissioners shall conduct a review under subdivision (1) in the same manner as a rehearing under section 5 of this chapter.

SECTION 5. IC 6-1.1-15-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2002]: Sec. 5. (a) **Within Not later than** fifteen (15) days after the division of appeals of the state board of tax commissioners gives notice of its final determination under section 4 of this chapter to the party or the maximum allowable time for the issuance of a determination by the division of appeals under section 4 of this chapter expires, a party to the proceeding may request a rehearing before the board. The board may conduct a rehearing and affirm or modify its final determination, giving the same notices after the rehearing as are required by section 4 of this chapter. The state board of tax commissioners has thirty (30) days after receiving a petition for a rehearing to determine whether to grant a rehearing. Failure to grant a rehearing within thirty (30) days after

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receiving the petition shall be treated as a final determination to deny the petition. A petition for a rehearing does not toll the time in which to file a petition for judicial review unless the petition for rehearing is granted. If the state board of tax commissioners determines to rehear a final determination of the division of appeals, the state board of tax commissioners:

- (1) may conduct the additional hearings that the state board of tax commissioners determines necessary or review the written record of the division of appeals without additional hearings; and
- (2) shall issue a final determination ~~within~~ **not later than** ninety (90) days after notifying the parties that the state board of tax commissioners will rehear the determination.

Failure of the state board of tax commissioners to make a determination within the time allowed under subdivision (2) shall be treated as a final determination affirming the decision of the division of appeals.

(b) A person may appeal the final determination of the division of appeals or the state board of tax commissioners regarding the assessment of that person's tangible property. The appeal shall be taken to the tax court. Appeals may be consolidated at the request of the appellants if it can be done in the interest of justice.

(c) If a person desires to initiate an appeal of the state board of tax commissioners' final determination, the person shall:

- (1) file a written notice with the state board of tax commissioners informing the board of his intention to appeal;
- (2) file a complaint in the tax court; and
- (3) serve the attorney general and the county assessor with a copy of the complaint.

(d) To initiate an appeal under this section, a person must take the action required by subsection (c) ~~within~~ **not later than**:

- (1) forty-five (45) days after the state board of tax commissioners gives the person notice of its final determination under IC 6-1.1-14-11 unless a rehearing is conducted under subsection (a);
- (2) thirty (30) days after the board gives the person notice under subsection (a) of its final determination, if a rehearing is conducted under subsection (a) or the maximum time elapses for the state board of tax commissioners to make a determination under this section; or
- (3) forty-five (45) days after the division of appeals gives notice of a final determination under section 4 of this chapter or the division fails to make a determination within the maximum time allowed under section 4 of this chapter, if a rehearing is not

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1 granted under this section.

2 (e) The failure of the state board of tax commissioners to conduct a
3 hearing within the time period prescribed in ~~section 4(b)~~ **section 4(f)**
4 of this chapter does not constitute notice to the person of a board
5 determination.

6 (f) In a case in which the final determination of the state board of
7 tax commissioners would result in a claim by a taxpayer with respect
8 to a particular year for a refund that exceeds:

9 (1) eight hundred thousand dollars (\$800,000); or

10 (2) an amount equal to ten percent (10%) of the aggregate tax
11 levies of ~~all any~~ **any** taxing ~~units~~ **unit** in the county for that year;
12 whichever is less, the county executive may take an appeal to the tax
13 court in the manner prescribed in this section ~~but only~~ upon request by
14 the county assessor **or an affected taxing unit. If the appeal is taken**
15 **at the request of an affected taxing unit, the taxing unit shall pay**
16 **the costs of the appeal.**

17 SECTION 6. IC 6-1.1-15-6 IS AMENDED TO READ AS
18 FOLLOWS [EFFECTIVE JANUARY 1, 2002]: Sec. 6. **(a)** If an appeal
19 is initiated by a person under section 5 of this chapter, the secretary of
20 the state board of tax commissioners shall prepare a certified ~~transcript~~
21 **record** of the proceedings related to the appeal. ~~However, the transcript~~
22 ~~shall not include the evidence compiled by the board with respect to the~~
23 ~~proceedings. The secretary of the board shall transmit the transcript to~~
24 ~~the clerk of the court designated by the appellant. The record must~~
25 **consist of the following documents:**

26 **(1) Copies of all papers submitted to the state board of tax**
27 **commissioners during the course of the action and copies of**
28 **all papers provided to the parties by the state board of tax**
29 **commissioners. The term "papers" includes without**
30 **limitation all notices, petitions, motions, photographs, and**
31 **other written documents.**

32 **(2) The transcript of the evidence and proceedings at the**
33 **administrative hearing conducted by the division of appeals**
34 **of the state board of tax commissioners.**

35 **(3) Copies of all exhibits and physical objects provided to the**
36 **division of appeals of the state board of tax commissioners**
37 **during the course of the administrative hearing conducted by**
38 **the division of appeals.**

39 **Copies of the exhibits that, because of their nature, cannot be**
40 **incorporated into the record must be kept by the state board of tax**
41 **commissioners until the appeal is finally terminated. However, this**
42 **evidence must be briefly named and identified in the record.**



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1 (b) If a report of all or part of the evidence or proceedings at the
 2 hearing conducted by the state board of tax commissioners was not
 3 made, or if a transcript is unavailable, a party to the appeal
 4 initiated under section 5 of this chapter may prepare a statement
 5 of the evidence or proceedings. The statement must be submitted
 6 to the Indiana tax court and must also be served on all other
 7 parties who may then serve objections or prepare amendments to
 8 the statement not later than ten (10) days after service.

9 SECTION 7. IC 6-1.1-15-9 IS AMENDED TO READ AS
 10 FOLLOWS [EFFECTIVE JANUARY 1, 2002]: Sec. 9. (a) If tangible
 11 property is reassessed by the state board of tax commissioners under
 12 section 8 of this chapter, the owner of the property has a right to appeal
 13 the board's final determination of the reassessment. In a case meeting
 14 the requirements of section 5(f)(1) or 5(f)(2) of this chapter, the county
 15 executive ~~also has a right to~~ **may** appeal the board's final determination
 16 of the reassessment ~~but only~~ upon request by the county assessor **or an**
 17 **affected taxing unit. If the appeal is taken at the request of an**
 18 **affected taxing unit, the taxing unit shall pay the costs of the**
 19 **appeal.**

20 (b) An appeal under this section must be initiated in the manner
 21 prescribed in section 5 of this chapter.

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